

In re Application of MOORE et al.
Serial No. 09/742,795

REMARKS

The Office action has been carefully considered. The Office action rejected claims 1-4, 11-20, and 22-30 under 35 U.S.C. § 102(b) as being anticipated by "BugNet Cybermedia Oil Change Version 2.5, 1998, ("BugNet"). Further, the Office action rejected claims 5-6 and 8-9 as being unpatentable over BugNet in view of Japanese Patent No. 09-288572 to Yasui et al. ("Yasui"). Further yet, the Office action rejected claim 7 as being unpatentable over BugNet in view of Yasui and in further view of U.S. Patent No. 5,944,821 to Angelo et al. ("Angelo"). Still further, the Office action rejected claims 10 and 21 as being unpatentable over BugNet in view of Yasui. Finally, the Office action rejected claims 3, 20-22, and 26 under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants respectfully disagree.

By present amendment, claims 3, 4, 20, 22, and 26 have been amended for clarification and not in view of the prior art. Applicants submit that the claims as filed were patentable over the prior art of record, and that the amendments herein are for purposes of clarifying the claims and/or for expediting allowance of the claims and not for reasons related to patentability. Reconsideration is respectfully requested.

Applicants thank the Examiner for the interview held (by telephone) on May 21, 2004. During the interview, the Examiner and applicants' attorney discussed the claims with respect to the prior art. The essence of applicants' position is incorporated in the remarks below.

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Prior to discussing reasons why applicants believe that the claims in this application are clearly allowable in view of the teachings of the cited and applied references, a brief description of the present invention is presented.

The present invention is directed to a system and method for facilitating automatic software updates from an online source such as the Internet without being required to have established a connection to the online source in order to determine whether an update (e.g., a driver or software component) is available online. Information relating to available online updates (or lack thereof) may be stored in a local cache whereby each available update may correspond to drivers and/or other software components. Thus, when a particular application may need to check for the availability of an update, instead of establishing a connection to the online source, the local cache may be accessed to determine if there is, in fact, an update that may need to be retrieved from the online source. In this manner, if no update may be needed as determined from the information stored in the local cache, no connection to the online source may be needed in the first place.

This may be especially beneficial for computers and/or computer users who do not always have access to a network, such as the Internet. When a device may be installed or software components may be detected, instead of requiring a connection to enable updates, the cached information may be evaluated to determine whether the update is available online. If so, the user may defer making the connection, for instance, and the update may happen automatically and/or in the background on the next online connection.

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Note that the above description is for example and informational purposes only, and should not be used to interpret the claims, which are discussed below.

§102(b) Claim Rejections

Turning to the claims, independent claim 1 recites a computer-implemented method, comprising at a client computer, obtaining information about available updates from a server, storing the information about available updates at a local cache on the client computer, and in response to a request for update information that may be available at the server, accessing the local cache to retrieve the information about available updates.

The Office action rejected claim 1 as being anticipated by BugNet. More specifically, the Office action contends that BugNet discloses at a client computer, obtaining information about available updates from a server. Page 1, lines 1-3 of BugNet is referenced. Further, the Office action contends that BugNet discloses storing the information about available updates at a local cache on the client computer. Page 6, lines 10-15 and page 7, lines 5-6 of BugNet are referenced. Finally, the Office action contends that BugNet discloses, in response to a request for update information that may be available at the server, accessing the local cache to retrieve the information about available updates. Page 1, lines 1-10 and 13-16 of BugNet are referenced. Applicants respectfully disagree.

BugNet is directed, generally, to a system and method for providing update information about several programs by accessing online sources to determine the availability of those potential updates. In fact, by requiring a connection to the Internet (or other online source) in order to periodically scan for updates as they

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become available, BugNet is an example of the very problem that the present invention may overcome. See page 2, lines 13-14 of BugNet. A user of BugNet may choose to download the update at that time or at a later time (See page 3, lines 1-3), however, in order to determine if an update is available, the system must use the connection to the Internet to determine the availability.

In contrast, claim 1 recites storing the information about available updates at a local cache on the client computer, and in response to a request for update information that may be available at the server, accessing the local cache. That is, information about available updates may be retrieved from an online source at some prior point in time (*i.e.*, before the request for update information) such that any retrieved information can be made available in a local cache at a later point in time (*i.e.*, in response to a request for update information). BugNet does not teach the recitations of claim 1.

Further, the cited and applied reference does not teach storing the information about the update in a local cache and accessing the local cache in response to a request for an update. Rather, BugNet immediately accesses any online source to determine the availability of an update. If the computer system in BugNet does not have a current connection to the online source, the method of BugNet cannot be executed.

As briefly noted above, the Office action contends that BugNet teaches storing the information about available updates at a local cache on the client computer at page 6, lines 10-15. This is an erroneous interpretation of BugNet. The cited and applied section of BugNet teaches the use of the temporary directory

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feature of an operating system. When applications or updates are installed (or when any program is executed for that matter) an operating system may need to use, access, create, or otherwise manipulate certain files. As such, the operating system typically uses a temporary directory for storage of files requiring fast access or file that are being maneuvered elsewhere. In short, the temporary directory is simply a storage modicum for the operating system and is not a local cache for storing update information to be accessed in response to a request for updates.

Further yet, as briefly noted above, the Office action contends that BugNet teaches storing the information about available updates at a local cache on the client computer at page 7, lines 5-7. Again, this is an erroneous interpretation. Although, BugNet teaches the use of a temporary cache, the manner in which the cache is used is quite different from the manner in which the local cache is used in the present invention. A cache is simply a storage modicum, *i.e.*, a memory location. In BugNet, the cache identified as the "temporary cache" is used to store information during the scan of the system to determine which programs are present on the system. Simply showing that BugNet uses a cache of any kind to store information (of any kind) surely cannot be construed to teach storing information about updates in a local cache and accessing the local cache in response to a request for update information.

In short, BugNet requires a connection to an online source in order to determine whether an update is available or not at the time the request is made. Thus, for at least the foregoing reasons, applicants submit that claim 1 is allowable over the prior art of record.

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Applicants respectfully submit that dependent claims 2-4 and 11-16, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 1 and consequently includes the recitations of independent claim 1. As discussed above, BugNet fails to disclose the recitations of claim 1 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 1 noted above, each of these dependent claims includes additional patentable elements.

For example, claim 3 recites the computer-implemented method of claim 1 wherein obtaining information about available updates from the server includes obtaining data that changes the information about available updates in the local cache. As discussed above, BugNet does not store information about updates in a local cache. Consequently, BugNet cannot possibly teach obtaining further information that may change the information already stored in the local cache. Applicants submit that claim 3 is allowable for at least this additional reason.

As another example, claim 16 recites the computer-implemented method of claim 1 wherein accessing the local cache to retrieve the information about available updates indicates that an update is available, and further comprising, downloading the available update. Again, as discussed above, BugNet does not store information about updates in a local cache. Nor does BugNet teach downloading an update after accessing the local cache. Applicants submit that claim 16 is allowable for at least this additional reason.

Turning to the next independent claim, claim 17 recites a system comprising, network access software configured to access a network, a cache, a

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cache maintenance mechanism connected to the network access software and configured to maintain information in the cache corresponding to available updates maintained on the network, and automatic update software connected to access the cache in response to a request for update information on the network, and to determine from the information in the cache whether an update is available.

The Office action rejected claim 17 as being anticipated by BugNet. More specifically, the Office action contends that BugNet discloses network access software configured to access a network. Page 1, lines 1-3 of BugNet is referenced. Further, the Office action contends that BugNet discloses a cache and a cache maintenance mechanism connected to the network access software and configured to maintain information in the cache corresponding to available updates maintained on the network. Page 2, lines 1-10 and page 7, lines 5-6 of BugNet are referenced. Finally, the Office action contends that BugNet discloses automatic update software connected to access the cache in response to a request for update information on the network, and to determine from the information in the cache whether an update is available. Page 2, lines 1-10 and lines 13-16 of BugNet are referenced. Applicants respectfully disagree.

As discussed above, the method and system disclosed in BugNet does not use a local cache to store information about available updates. Thus, BugNet cannot possibly teach a a cache maintenance mechanism connected to the network access software and configured to maintain information in the cache corresponding to available updates maintained on the network. Rather, all information about available updates is stored at the various server computers of

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the very online sources associated with the makers of each individual application to be updated. Once again, access to the online sources of this information is required at the time the request is made to determine whether or not an update is available.

Furthermore, claim 17 recites automatic update software connected to access the cache in response to a request for update information on the network. In contrast, BugNet teaches accessing each individual online source when the request is made. As discussed above, BugNet does not use a local cache to store update information, therefore, any request for update information must necessarily be directed to the respective online source which requires Internet access. For at least these reasons, applicants submit that claim 17 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 18-20 and 22-26, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 17 and consequently includes the recitations of independent claim 17. As discussed above, BugNet fails to disclose the recitations of claim 17 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 17 noted above, each of these dependent claims includes additional patentable elements.

Turning to the next independent claim, claim 27 recites a computer-readable medium having computer executable instructions, comprising accessing an online source to obtain information related to available updates, caching the information, receiving a request directed to whether a particular update is available for

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download from the online source, and accessing the cache to determine whether the particular update is available for download from the online source.

The Office action rejected claim 27 as being anticipated by BugNet. More specifically, the Office action contends that BugNet discloses accessing an online source to obtain information related to available updates. Page 1, lines 1-3 of BugNet is referenced. Further, the Office action contends that BugNet discloses caching the information. Page 7, lines 5-6 of BugNet is referenced. Still further, the Office action contends that BugNet discloses receiving a request directed to whether a particular update is available for download from the online source. Page 2, lines 1-10 of BugNet is referenced. Finally, the Office action contends that BugNet discloses accessing the cache to determine whether the particular update is available for download from the online source. Page 2, lines 1-10, page 7, lines 5-6 and page 3, lines 12-13 of BugNet are referenced. Applicants respectfully disagree.

Claim 27 recites a computer-readable medium having computer executable instructions, comprising, accessing an online source to obtain information related to available updates, caching the information, receiving a request directed to whether a particular update is available for download from the online source, and accessing the cache to determine whether the particular update is available for download from the online source. As previously discussed, BugNet does not teach a local cache to store information about available updates. Nor does BugNet teach caching the information obtained online that is related to the available update. Rather, all information about available updates is stored at the various server

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computers of the very online sources associated with the makers of each individual application to be updated. Once again, access to the online sources of this information is required at the time the request is made to determine whether or not an updates is available.

Furthermore, claim 27 recites accessing the cache to determine whether the particular update is available for download from the online source. As discussed above, BugNet does not access a local cache to answer this question. Rather, BugNet must access each respective online source for each application that may require an update. Thus, for at least these reasons, applicants submit that claim 27 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 28-30, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 27 and consequently includes the recitations of independent claim 27. As discussed above, BugNet fails to disclose the recitations of claim 27 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 27 noted above, each of these dependent claims includes additional patentable elements.

§103(a) Claim Rejections

The Office action rejected claims 5-10, and 21 as being unpatentable over BugNet in view of either Yasui or Angelo. Each of these claims are dependent claims and are allowable for at least the reasons that each respective independent claim is allowable as was discussed above with respect to the §102 rejections. More particularly, applicants submit that claims 5-10 are allowable for at least the

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reasons that claim 1, the claim from which these claims depend, is allowable.

None of the prior art of record, whether considered alone or in any permissible combination, teaches or suggests the claim limitations of claim 1 or its dependent claims. Additionally, applicants submit that claim 21 is allowable for at least the reasons that claim 17, the claim from which this claim depend, is allowable. None of the prior art of record, whether considered alone or in any permissible combination, teaches or suggests the claim limitations of claim 17 or its dependent claims.

For at least the reasons discussed above with respect to both the §102 and §103 rejections, applicants submit that all the claims are patentable over the prior art of record. Reconsideration and withdrawal of the rejections in the Office action is respectfully requested and early allowance of this application is earnestly solicited.

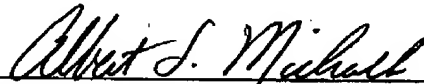
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CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-30 are patentable over the prior art of record, and that the application is in good and proper form for allowance. A favorable action on the part of the Examiner is earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (425) 836-3030.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Amendment, along with transmittal and facsimile cover sheet, are being transmitted by facsimile to the United States Patent and Trademark Office in accordance with 37 C.F.R. 1.6(d) on the date shown below:

Date: October 7, 2004


Albert S. Michalik

2690 Second Amendment